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TO RUEHC/SECSTATE WASHDC 4590  
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE

UNCLAS SECTION 01 OF 02 LJUBLJANA 000109

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DEPT FOR EUR/NCE AND DRL/CRA

E.O. 12958: N/A

TAGS: [PHUM](#) [PREF](#) [SI](#)

SUBJECT: SLOVENIA BACKSLIDING ON ASYLUM PROCEDURES

REF: 05 LJUBLJANA 549

11. (SBU) SUMMARY. On Monday February 6, the National Assembly passed amendments to Slovenia's Asylum Law that will give the police significant new powers in adjudicating requests for asylum and reduce the role of trained asylum caseworkers. The new amendments are likely to further erode safeguards for asylum adjudication and restrict the number of refugees entering the country. The regional office of the United Nations High Commissioner for Refugees (UNHCR) and numerous Slovenian NGOs have expressed dismay at the new amendments and the deteriorating conditions at Slovenia's asylum center, arguing that the amendments make it easier for caseworkers to circumvent international asylum conventions. President Drnovsek threatened not to sign the amendments (which would have contravened his constitutional mandate) but in the end signed off while urging Slovenia's Human Rights Ombudsman to refer the law to the Constitutional Court for review. END SUMMARY.

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UNHCR Criticizes Amendments to Asylum Law  
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12. (U) The UNHCR Office in Budapest characterized the amendments to the Asylum Law passed on February 6 as "restrictive measures which narrow the scope of protection granted to asylum seekers and refugees in the Republic of Slovenia." UNHCR raised concerns with the fact that the new amendments allow border police to make a prima facie determination whether a person crossing the border may apply for asylum. According to a written press statement, "UNHCR considers that the proposed pre-procedure lacks basic legal safeguards, including the right to appeal, but critically it does not allow for a sound examination of reasons for a person's flight by a qualified case worker within the asylum procedure as required by international standards."

13. (U) UNHCR also criticized the fact that the amendments repeal the right to free legal aid at the first instance of the asylum procedure. For asylum seekers, the free legal aid, which was provided heretofore by the GOS, was an essential safeguard in the complex asylum procedure. Since most asylum seekers cannot afford legal counsel on their own and lack knowledge of the complexities of asylum law, the repeal of such free legal assistance has a potentially large impact on asylum seekers' ability to present their case.

14. (U) UNHCR also criticized the fact that the new amendments repeal the right of work in the first year after the submission of an asylum application. Monthly welfare allowance and financial support to cover meal and accommodation costs for those living outside the asylum center are also terminated. UNHCR is concerned that the repeal of this support will disproportionately affect

vulnerable categories of asylum seekers, forcing them to become entirely dependent on the care received at the asylum center.

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NGOs Criticize Amendments, Conditions at Asylum Center  
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15. (U) Numerous Slovenian NGOs have been critical of the newly adopted amendments to the Asylum Law, including Amnesty International, Matafir, Mozaik, the Jesuit Refugee Service, the Peace Institute, the Legal-Information Center, Racio Social, Slovenian Philanthropy, and Foundation GEA 2000.

16. (U) In a February 15 meeting with PolMiloff, lawyer Vita Habjan from the NGO Legal-Information Center explained her concerns with the new legislation and the conditions facing asylum seekers in Slovenia. Habjan complained that the additional restrictions put on asylum seekers could lead to refoulement (involuntary return to a country where abuse could take place) and that due process was routinely being violated. Habjan noted that the police now had the authority to turn away asylum seekers at the border without conducting a thorough hearing and without following the requisite procedures required by international conventions. (NOTE: Post will follow up with other NGOs to ascertain whether this is in fact the case. END NOTE). Habjan noted that while NGOs like Legal-Information Center could still offer free legal aid on their own initiative, their resources were not adequate to address the needs of asylum seekers, many of whom are indigent and/or illiterate and completely unaware of their rights.

17. (U) Habjan told us that the opposition sympathized with the plight of asylum seekers and agreed with the NGO

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community that the amendments were unnecessary and overly restrictive. Asked whether she thought the Human Rights Ombudsman might refer the law to the Constitutional Court, Habjan answered that she thought it unlikely. However, Habjan revealed that the Liberal Democratic Party (LDS) might refer the case to the Constitutional Court (NOTE: For the National Assembly to refer a law to the Constitutional Court, a minimum of one third of the votes in parliament is required. END NOTE).

18. (U) Habjan also claimed that conditions at the asylum center in Ljubljana were below international standards. Habjan explained that representatives of Legal-Information Center are present at the asylum center on a daily basis, and had witnessed numerous examples of substandard care. Habjan noted that the center had no trained psychologists, that for one full month there was no one assigned to monitor the entry/exit of visitors, and that a caseworker was being investigated for involvement in trafficking in persons. Habjan also recited stories of favoritism, discrimination, and lack of sanitary conditions.

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A Story of Statelessness for Balkan Refugees in Slovenia  
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19. (U) During a February 3 trip to the Roma Association headquarters in northeastern Slovenia, PolMiloff met a family of four Roma refugees (a couple with two sons) who had come to Slovenia in the early 1990s. In some ways, this family of Roma musicians personify the problems with Slovenia's restrictive asylum policy. Originally from Bosnia and Herzegovina, the parents fled Bosnia shortly after the outbreak of hostilities and moved to Zadar, Croatia. The two sons were both born in Zadar. During their years in Croatia, however, the family received multiple death threats and were concerned about their safety, eventually leading them to flee to Slovenia during the height of the war in Croatia. They eventually settled in a Roma encampment near the northeastern

Slovenian city of Murska Sobota.

¶10. (U) As talented musicians and artists, the family was able to earn enough money to get by. The older son is married to a Slovenian citizen and is a successful musician with numerous popular CDs, while the younger son is still in high school, where he earned a prestigious Zois scholarship for his academic merits. Both sons, however, are stateless persons, having neither Bosnian, Croatian, nor Slovenian citizenship (forcing the younger son to turn down his prestigious scholarship). The father is a Bosnian citizen, the mother a Croatian citizen. The family is reluctant to formally apply for refugee status after all these years, fearing that Slovenia's strict anti-immigrant asylum policy will cause them to be deported back to Bosnia or Croatia. Fluent in Slovenian, talented, and otherwise successful, their story highlights the problems of an asylum system that cannot ensure that refugees are given a fair hearing. The result is that many refugees simply avoid the system altogether, settling in encampments or living without legal status for years, sometimes decades.

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Comment  
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¶10. (SBU) The recent amendments to Slovenia's Asylum Law, though perhaps not directly contravening international asylum conventions, certainly make it easier to deny due process to asylum seekers. As a result, Slovenia's asylum system offers poor guarantees against refoulement, or the forced return to a country where refugees might face persecution. Slovenia already began restricting its asylum procedures under the previous center-left government, allowing cases to be dismissed with minimal evidence as "manifestly unfounded" (see reftel). With these new amendments, however, additional opportunities have arisen to deny asylum seekers a thorough hearing. At this point, either the Human Rights Ombudsman can refer the law to the Constitutional Court or the National Assembly can do so with one third of the vote. Ultimately, however, it is not the constitutionality of the legislation that really matters, but rather the manner in which it is implemented. Post will continue to monitor Slovenia's asylum procedure and urge the GOS to recognize its international commitments in this area.  
ROBERTSON